



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

CORRECTED DECISION

Dispute Codes CNL, FF

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein the Tenant sought to cancel a 2 Month Notice to End Tenancy for Landlord's use issued on April 15, 2015 ~~and to recover the filing fee.~~

The Applicant and his legal advocate appeared at the hearing. The Respondent, I.V., was represented by her advocate, G.V. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

At the conclusion of the hearing, I directed G.V. to submit the residential tenancy agreement as neither party had submitted it in evidence. Following the hearing, the Landlord submitted the residential tenancy agreement, dated December 12, 2008, which was an agreement between the Tenant and I.T. and her agent, R.E.P. who was identified as the "LANDLORD". The agreement was signed by the Tenant and R.E.P.

During the hearing, G.V. made an oral request for an Order of Possession pursuant to section 55(1)(a) of the *Residential Tenancy Act*.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. Is the Landlord entitled to an Order of Possession?
3. ~~Should the Tenant recover the fee paid to file his application?~~

Background and Evidence

As noted, neither party submitted a copy of the residential tenancy agreement.

G.V. stated that the rental property was located in a four-plex which was owned by the Respondent, I.V., and her three sisters, A.W., I.T., and E.P. Initially, G.V. was not able to state when the tenancy between G.S. and I.V. began or if the tenant paid a security deposit. During the hearing he located the residential tenancy agreement and was able to provide these answers once reference was made to the agreement.

G.V. stated that a 2 Month Notice had been issued on April 10, 2015, which was prepared by I.V. and sent to the Tenant by regular mail (the "April 10, 2015 Notice"). Notably, the April 10, 2015 Notice was not signed. G.V. acknowledged the April 10, 2015 Notice was not valid.

G.V. testified that I.V. issued another 2 Month Notice to End Tenancy for Landlord's Use on April 15, 2015, which was sent to the Tenant by registered mail (the "April 15, 2015 Notice"). I.V. was noted as the Landlord on the April 15, 2015 Notice and the effective date was July 1, 2015.

G.V. stated that it is the intention of the sisters that A.W. move into the rental unit permanently with the other two sisters, I.V., and I.T. vacationing at the rental unit. He stated the fourth sister was too unwell to participate in this plan.

Analysis

Section 52 of the *Residential Tenancy Act* provides as follows

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

The residential tenancy agreement, entered into evidence confirms I.T. and R.E.P. as the Landlord. The April 15, 2015 Notice was signed by I.V. As she is not the Landlord on the tenancy agreement, the Notice is ineffective pursuant to section 55(a).

The Tenant's application to cancel the Notice is granted. Consequently, Applicant's request for an Order of Possession pursuant to section 55 is dismissed. The tenancy shall continue until ended in accordance with the *Act*.

~~As the Tenant has been successful, he shall recover the \$50.00 fee he paid to file his application. He may reduce his next month's rent by \$50.00~~

Conclusion

The Notice was not signed by the Landlord as indicated on the residential tenancy agreement and is therefore ineffective pursuant to section 52(a) of the *Act*. The Notice is set aside and ~~the Tenant shall recover the filing fee.~~ the tenancy shall continue until ended in accordance with the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 09, 2015

Date of Correction: July 07, 2015

Residential Tenancy Branch

